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January 8, 2016

VIA ECF FILING

The Honorable Charles. R. Breyer
United States District Judge
United States District Court for the Northern
District of California
Phillip Burton Federal Building, Courtroom 6
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *In Re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability
Litigation*, Case No. 3:15-md-2672-CRB (JSC)

Application of William M. Audet for Appointment as Plaintiffs’ Liaison Counsel

Dear Judge Breyer,

I, William M. Audet, managing partner at Audet & Partners, LLP, hereby respectfully submit my letter application, along with my resume, for consideration as Plaintiffs’ Liaison Counsel in MDL No. 2672. Before setting forth my qualifications for this position, I note that this landmark litigation presents a unique challenge in terms of simply coordinating the interactions of the various parties with one another, and more importantly, with the Court. The designation of an independent Liaison Counsel would facilitate those interactions and assist in the efficient and effective conduct of the litigation, among other benefits. *See Manual for Complex Litigation* (Fourth), § 10.221.¹

Given the varied but likely overlapping interests of the plaintiffs in these cases (individual purchasers, classes of consumers, and dealerships/retailers), the creation of a Liaison Counsel position would also serve the interests of justice. My office’s location and state-of-the-art facilities, and my personal background including litigation experience, academic achievements, and former clerkships in federal courts, render me uniquely qualified to serve as Liaison Counsel in this matter. As Liaison Counsel, I intend to ease the administrative burden on the Court and the parties, while significantly reducing the duplication of effort (and costs to the Classes) typically seen in a case of this magnitude. The following factors, keyed to the Court’s request for information in PTO No. 2, support my appointment as Liaison Counsel in this case:

(1) & (2) Professional experience in this type of litigation & contact information of Judges:

As outlined in my attached resume, I have extensive experience in the prosecution and resolution of complex class cases of all types, and have been appointed to leadership positions in dozens of

¹ See also *Managing Multidistrict Litigation in Products Liability Cases: A Pocket Guide for Transferee Judges* (Federal Judicial Center, JPML, 2011) (“MMLPL Cases Guide”) at p. 10-11.

consumer and other class action cases over the past 25-plus years, including as lead counsel and/or as a steering committee member, in the Northern District of California and other courts. *See, e.g., Lorentz v. Regal Stone, Ltd*, No. 7-cv- 5800-SC (co-lead counsel with the Cotchett firm for claims arising out of *Cosco Busan* oil spill)[**Hon. Samuel Conti** (retired)(contact via Clerk's office (415-522-2000)]; *CLRB v. Google, Inc.*, No. 5-cv-3649 –JW [**Hon. James Ware** (retired), JAMS at 415-982-5267]; *In re Google, Inc., Android Consumer Privacy Litigation*, MDL No. 2264 (N.D. Cal.)(Co-lead counsel) [**Hon. Jeffrey S. White**, (510) 637-3541]; *In re Bextra Litigation*, MDL No. 1699 (N.D. Cal.)(Member, Plaintiff's Steering Committee)[**Hon. Charles R. Breyer**]; *In Zyprexa Litigation*, MDL No. 1596 (E.D.N.Y) (Co-Lead, Chairman of Executive Committee) [**Hon. Jack B. Weinstein**, (718) 613-2520]; *Entran II (Galanti, et al. v. Goodyear Tire & Rubber Company)*, MDL No. 03209, D. N.J.)(Committee Member)[**Hon. Stanley R. Chesler**, (973) 645-3136]. More importantly, for purposes of this request, I have been appointed as Liaison Counsel for plaintiffs in a number of class action cases. *See, e.g., In Re Iphone Application Litig* 5:10-cv-05878-LHK, MDL No. 2550 (N.D.Cal.)(**Hon. Lucy H. Koh**, (408) 535-5357]; *APPLE iPhone 4 CASES*, JCCP No. 4639, (Santa Clara Superior Court)[**Hon. Joseph H. Huber**, (408) 882-2230] (coordinated with MDL No. 2188 (RMW)[**Hon. Ronald Whyte**, 408-535-5331]). Additional notable cases are listed in my attached resume.

(3) Willingness and ability to immediately commit to time-consuming litigation: I would personally undertake (or if appropriate, delegate and oversee) all tasks associated with the role of Liaison Counsel, including if so desired by the Court, the following: (1) facilitating communications between the Court and counsel (including setting up teleconferences and submitting an attendee list prior to any hearing); (2) providing the Court with hand-delivered courtesy copies of all filings by Plaintiffs (with additional copies for the Court's law clerks) in whatever format requested by the Court; (3) convening and hosting meetings of plaintiffs' counsel and/or all counsel; (4) advising parties of developments not otherwise addressed in ECF filings (including web posting of case developments for the public); (5) coordinating scheduling of depositions for all cases in the MDL (and state court actions), as well as hosting any San Francisco depositions; (6) hosting or managing plaintiffs' document depositories; (7) hosting pre-and post-Court hearings and related meetings of plaintiffs' counsel or for all counsel (and during any extended 'court breaks'); (8) collecting and maintaining time and expense records/reports (using web based reporting programs); (9) interacting with defense counsel on setting depositions, scheduling agendas and other procedural matters; (10) coordinating discovery with related state court litigation; and (11) providing reports and updates to the Court regarding the status of related state litigation. *See generally, Manual for Complex Litigation* (Fourth), §10.221; *In re Bextra*, MDL No. 1699, Case No. M: 05-cv-01699, Pretrial Order No. 2, at 5-6 (N.D. Cal. Dec. 13, 2005) (Breyer, J.). Indeed, just the task of coordination with other actions on discovery and other matters warrants the creation of this position and is an area where Liaison Counsel can be of substantial assistance to the Court and the parties in a case of this magnitude. *See MMLPL Cases Guide, supra*, at p. 23.

I presently have, and will continue to reserve, ample time to fulfill the duties of Liaison Counsel in this action. As part of my role, I would be available '24/7' by way of providing my personal cell phone number to the Court and the lead attorneys, as well as making myself available to attend hearings in person on short notice should the need arise, aided by the fact that I reside within a 20 minute drive from the courthouse and that my offices are one block from the Court.

(4) & (5) Willingness and ability to work cooperatively and access to resources: In my many years of serving in leadership positions (including as Liaison Counsel), I have always believed in working harmoniously with all counsel, and have instilled this philosophy at my firm. From my many years of experience in the plaintiffs' bar, I personally know most of the firms involved in the action, and can work cooperatively with them in all matters large and small to ensure the courtesy and professionalism expected of attorneys practicing before this Court.

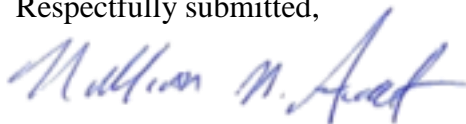
My firm has the necessary financial resources, staffing and office space (including three conference rooms for meetings, depositions, and trial team work up) to undertake the role as Liaison Counsel and to make these resources readily available to the plaintiffs and the Court. As in other MDL cases, attorneys visiting from out of state would benefit from a 'second' home office close to the courthouse. Again, as particularly relevant to the position of Liaison Counsel, the new offices of Audet & Partners, LLP's are located at 711 Van Ness Avenue, San Francisco, California, one block from this Court.

(6) & (7) Willingness to serve as lead counsel or as a member of a steering committee, and the particular category or categories of plaintiffs the applicant wants to represent: While I make this application with a view to being appointed Liaison Counsel, I stand ready, willing and able to assume any role in the case, should the Court wish to appoint me to such role. As Liaison Counsel, I am willing to serve on the Steering Committee as an official or ex-officio member, though I did not seek or give endorsements for such positions in an effort to remain neutral. I seek to represent the consumer class plaintiffs and individual consumer plaintiffs (both owners and lessees) and the dealership plaintiffs in the role of Liaison Counsel with the Court, but would undertake any liaison duties for all cases before the Court. I currently represent, among others, the consumer class action plaintiffs in *Hall v. Volkswagen Group of America, Inc.*, No 3:15-cv-4340 CRB (N.D. Cal.).

(8) Any other considerations: My background in the legal field is unique, and enhances my ability to act as Liaison Counsel. I was a clinical professor at the University Of Wisconsin School Of Law, while also working towards my LL.M. degree. I then clerked for the Ninth Circuit Court of Appeals, and served as a law clerk to the Honorable Fern M. Smith and then to the Honorable Alphonso Zirpoli. I was fortunate to be mentored early in my class action career by Robert L. Lieff and Elizabeth J. Cabraser, and to have worked with many of the attorneys and firms before the Court. I am well versed in the Local Rules of this Court, and contribute time and money to various non-profits, including the Bar Association of San Francisco, The Lawyers Committee for Civil Rights, and the Legal Aid Society (Employment Law Center), among others. I am taking classes to serve as *pro tem* discovery commissioner for San Francisco Superior Court.

I desire to serve the Court in this case because I believe I can make a difference, and that the burdens and complications associated with this MDL litigation will be significantly reduced if I am appointed as Liaison Counsel.

Respectfully submitted,



William M. Audet